

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

V.

2.574 ACRES OF LAND, MORE OR
LESS, SITUATE IN STARR COUNTY,
STATE OF TEXAS; AND OCIEL
MENDOZA, *et al.*

Defendants.

CASE NO. 7:20-CV-253

**UNITED STATES OF AMERICA’S UNOPPOSED MOTION FOR LEAVE OF COURT
TO FILE DISCLAIMER**

Plaintiff, United States of America (hereinafter “United States”), through the undersigned Assistant United States Attorney, respectfully requests leave of Court to file a Disclaimer for Martha N. Mendoza¹ and a proposed Order.² In support, the United States shows the following:

BACKGROUND

1. On September 1, 2020, the United States commenced this action against Defendants to acquire a fee interest in 2.574 acres of land, more or less, identified as Tract RGV-RGC-9000 (hereinafter “Subject Property”), for purposes of the Border Infrastructure Project.³

¹ Attached hereto as Exhibit 1.

² Attached hereto as Exhibit 2.

³ Dkt. Nos. 1-2.

2. On September 8, 2020, the United States deposited into the registry of the Court its estimated just compensation in the amount of \$93,261,⁴ at which time pursuant to the Declaration of Taking Act 40 U.S.C. § 3114, title to the Subject Property passed to the United States by operation of law.
3. On November 3, 2021, the Court issued an Order⁵ requiring the United States “to file all documentation adding, substituting, *disclaiming or dismissing* interested parties” by January 10, 2021.
4. On August 10, 2021, the United States received a fully executed Disclaimer for Martha N. Mendoza.

REQUEST FOR LEAVE OF COURT TO FILE DISCLAIMER FOR DEFENDANT

5. With the Court’s permission, the United States, requests the Court grant it leave to file the Disclaimer for Martha N. Mendoza⁶ and proposed Order⁷ dismissing her as a party after the Court’s January 10, 2021 deadline to disclaim or dismiss interested parties.
6. As good cause therefore, the United States presents that dismissing Martha N. Mendoza based on her fully executed Disclaimer is proper under Federal Rule of Civil Procedure 71.1(i)(2), necessary to further the resolution of this case, and justified at this time because the United States only received the fully executed Disclaimer from Martha N. Mendoza after she transferred her interest in the Subject Property to her former husband, Ociel Mendoza, following settlement of their divorce.
7. Under the Federal Rules of Civil Procedure, “[t]he [C]ourt may at any time dismiss a defendant who was unnecessarily or improperly joined.” Fed. R. Civ. P. 71.1(i)(2).

⁴ Dkt. No. 5.

⁵ Dkt. No. 25.

⁶ Ex. 1.

⁷ Ex. 2.

8. Accordingly, the United States respectfully requests the Court grant leave so that the Disclaimer for Martha N. Mendoza and proposed Order dismissing her as a party may be filed entries on the Court's docket, and properly considered by the Court.

PRAYER

The United States prays the Court grant its motion for leave and deems the "Disclaimer for Martha N. Mendoza",⁸ and the proposed Order,⁹ filed on the Court's docket.

CERTIFICATE OF CONFERENCE

The United States was previously informed that Defendant Ociel Mendoza hired Margil Sanchez as his attorney for this case. On August 10, 2021, the undersigned Assistant United States Attorney conferred with opposing counsel for Defendant Ociel Mendoza via telephone and he is unopposed to the filing of this motion.

Also on August 10, 2021, the United States conferred with opposing counsel for Defendant Martha N. Mendoza via email, and she is unopposed to this motion. In addition, the United States conferred with Assistant United States Attorney David Guerra, counsel for the Department of Treasury-Internal Revenue Service via email, and the Department of Treasury-Internal Revenue Service is unopposed to the filing of this motion.

Respectfully submitted,

JENNIFER B. LOWERY
Acting United States Attorney
Southern District of Texas

By: s/ Roland D. Ramos
ROLAND D. RAMOS
Assistant United States Attorney
Southern District of Texas No. 3458120

⁸ Ex. 1.

⁹ Ex. 2.

Texas Bar No. 24096362
1701 W. Bus. Highway 83, Suite 600
McAllen, TX 78501
Telephone: (956) 618-8010
Facsimile: (956) 618-8016
E-mail: Roland.Ramos@usdoj.gov
Attorney in Charge for Plaintiff

CERTIFICATE OF SERVICE

I, Roland D. Ramos, Assistant United States Attorney for the Southern District of Texas, do hereby certify that on August 11, 2021, a copy of the foregoing was served on all parties in accordance with the Federal Rules of Civil Procedure.

By: *s/ Roland D. Ramos*
ROLAND D. RAMOS
Assistant United States Attorney